Paul Storr, J. : — This was a reference made by the Johore Bahru Rent Assessment Board under section 10 of the Control of Rent Ordinance, 1948. After stating the facts of the case, the points on which the Board required opinion of the Court were :—

(a) whether a notice is necessary in respect of the litigation;

(b) whether the word "tenant" in section 13(1)-(e) if applied to the present case would mean the respondent.

On the reference, Mr. Charry appeared for the applicant and Mr. Ismail for the respondent.

I will first deal with point (b) and would say that the word "tenant" in section 13(1)(e) if applied to the present case would mean the respondent. However, I would add that it appears to have no relevance to the present case on the facts shown.

With regard to point (a), it was agreed by Counsel that the notice referred to was not a notice in respect of the litigation, but was as to whether a notice to quit was necessary before the applicant brought the present application. Now, the present application is made under section 13(1)(d) which reads :—

"13. (1) No order or judgment for the recovery of possession of any premises comprised in a tenancy shall be made or given except in the following cases, namely —

(d) where the tenant, or any other person occupying the premises under him, has been guilty of conduct constituting a nuisance or persistent annoyance to persons in the neighbourhood; or of using or permitting the use of the premises for illegal or immoral purposes; or of the breach of any written law under which any business is carried on upon the premises; or has caused substantial damage to the premises".

Mr. Charry for the applicant submitted that no notice was necessary in a case under this section.

Mr. Ismail for the respondent suggested that section 13(3) reads as follows :—

"13. (3) Nothing in this section shall be deemed to relieve a landlord from the necessity of determining the tenancy according to law."

made it obligatory for the applicant, if he wished to determine the tenancy, first to serve a notice to quit determining the tenancy.

The application in this case is based on the allegation of a nuisance or persistent annoyance caused by the respondent to the wife of the applicant, and Mr. Charry submitted that the committing of a nuisance is a breach of the implied condition of the tenancy and that therefore he could apply to Court for the ejectment of the tenant and the serving of a notice to quit was not in this case necessary to determine the tenancy.

On considering the matter, I have come to the opinion that the submission by Mr. Charry is correct and that on the facts of this particular case a notice to quit is unnecessary before bringing an application for possession under section 13(1)(d) of the Ordinance.

The answer to point (a) is therefore "No" and to point (b) "Yes". Costs fixed at $25/- to be paid by respondent to applicant.

Order accordingly.

PUBLIC PROSECUTOR v. TAY YAM PENG.

[App. Crim. Juris. (Wilson, J.) April 7, 1951]

[K. L. — Criminal Appeal No. 6 of 1951]

Opium and Chandu Proclamation s. 3(1) — Statement made to a Customs Officer — Whether admissible in evidence — Evidence Ordinance ss. 25 and 26 — Interpretations and General Clauses Ordinance 1948.

This was an appeal by the Public Prosecutor against the acquittal of the respondent on a charge under Section 3(1) of the Opium and Chandu Proclamation. The prosecution had sought at the trial to put in evidence a statement made by the respondent when he was in custody to a Senior Customs Officer which amounted to a confession. The learned President of the Sessions Court held that the statement was inadmissible.

Held, that the statement was rightly held to be inadmissible and that the appeal must be dismissed.

Cases referred to :—

(1) *Tan Shu En & Anor. v. Public Prosecutor* (1948) M.L.J. 196.

(2) *Man Woo v. Rex* (1951) M.L.J. 20; 11 M.L.R. 39.

CRIMINAL APPEAL.

A. M. Webb (D.P.P.) for appellant.

Respondent in person.

Wilson, J. : — The respondent was charged with an offence contrary to section 3(1) of the Opium and Chandu Proclamation as amended. The prosecution sought to put in evidence a statement made to a Senior Customs Officer which amounted to a confession. The Senior Customs Officer is a Chandu Officer within the meaning of the Opium and Chandu Proclamation. At the time the statement was made the respondent was undoubtedly in custody. The learned President of the Sessions Court held that he was bound by the decision in the case of *Tan Shu En & Anor. v. Public Prosecutor*[1] and that the statement made to the Senior Customs Officer while in custody was inadmissible. In as much as there was no other evidence against the respondent he was acquitted and discharged.

At the time of the original trial of the case of *Tan Shu En* the material interpretation ordinance in

force was the Interpretation Ordinance Chapter II of the Laws of the Straits Settlements. That Ordinance included the following definition: "police officer includes any member of the police force". So far as this case is concerned the interpretation ordinance in force is the Interpretation and General Clauses Ordinance, 1948, in which it is laid down "police officer means any member of the police force of the Federation". In view of that the Public Prosecutor has argued before me that the words "police officer" in sections 25 and 26 of the Evidence Ordinance cannot be given a meaning which would include any person who is not a member of the police force of the Federation. The following passage occurs in the judgment of Willan, C.J. in the case of *Tan Shu En* :—

"Mr. Wylie also sought to distinguish the Indian authorities on the ground that in this country "Police Officer" is defined in the Interpretation Ordinance (Cap. 2 of the Straits Settlements was in force at the time of the offence) in a manner which precludes its extension to cover a Chandu Officer. We do not accept that argument and should be prepared to hold, if necessary, that, in view of decided cases establishing the meaning to be given to the words "Police Officer" in section 25 — and section 26 — of the Evidence Ordinance, that definition does not apply for the purposes of these sections".

It seems to me quite clear that the Court of three Judges in that case decided not that the wording of the Interpretation Ordinance was sufficiently wide to include a chandu officer as a police officer within the meaning of the Evidence Ordinance, but that the definition in the Interpretation Ordinance does not apply at all for the purposes of the material sections of the Evidence Ordinance.

That being so it remains for me to consider only whether there is anything in the Interpretation and General Clauses Ordinance, 1948, which would apply the definition of "police officer" for the purposes of sections 25 and 26 of the Evidence Ordinance. Apart from the difference in the definition of "police officer" in the Interpretation and General Clauses Ordinance, 1949, and Chapter II of the Laws of the Straits Settlements, there is a difference in the wording of section 2 of the two Ordinances. I have considered these differences carefully but have come to the conclusion that there is nothing in the latter Ordinance which would justify me in holding that the definition of "police officer" therein does apply for the purposes of sections 25 and 26 of the Evidence Ordinance, if the definition of "police officer" in the earlier Ordinance did not so apply.

In these circumstances it is not necessary for me to consider the difference in the wording of the actual definition of "police officer" in the two Interpretation Ordinances.

My attention has been drawn to the decision of Murray-Aynsley, C.J. in the case of *Man Woo v. Rex*[2]. The report is not sufficiently full for me to know whether the case of *Tan Shu En* was drawn to the attention of the Court, and in any case I feel bound by the decision of the Court of three Judges in that case.

This appeal is dismissed.

Appeal dismissed.

E. H. BATTAT v. THE KING.

[Privy Council (Lord Morton of Henryton, Lord Reid and Lord Tucker) May 9, 1951]

[Privy Council Appeal No. 10 of 1951]

Finance Regulations 1946 — Finance Regula ion Proclamation 1945, s. 3 — Validity of — The Straits Settlements (Repeal) Act 1946 — The Singapore Colony Order in Council, 1946, ss. 2 and 42.

Appellant was convicted of certain offences against the Finance Regulations made under the Finance Regulations Proclamation issued under the authority of the Supreme Allied Commander, South East Asia and on appeal to Court of Criminal Appeal it was held that although the Finance Regulations Proclamation was merely an order of a military commander and was not in any sense law and ceased to have any sort of authority when once the emergency which caused it to have been issued has passed, subsequent legislation, namely, the Straits Settlements (Repeal) Act 1946 and the Singapore Order in Council 1946 have made Proclamations issued by or under the authority of the Supreme Allied Commander (with certain exceptions) law at the material dates.

On appeal by special leave the Judicial Committee of the Privy Council held (assuming the Kandy Proclamation, from which the Finance Regulations Proclamation derived its force, to have been invalid in origin):—

(1) Upon the true construction of Sections 2 and 42 of the Singapore Order in Council 1946 the Kandy Proclamation and the Finance Regulations Proclamation made thereunder were not made law by the said Order in Council 1946; but (2) Clause 5 of the Indemity and Validating Ordinance 1946 gave legal efficacy to proclamations issued by or under the authority of the Supreme Allied Commander from the date of their promulgation onwards and beyond 1st April, 1946.

APPEAL from a judgment of the Court of Criminal Appeal of the Colony of Singapore (Murray-Aynsley, C.J., Evans and Gordon-Smith, JJ.) January 16, 1951.

John Foster K.C. for the appellant.

Frank Gahan for the Crown.

The judgment of the Board was delivered by:—

Lord Tucker : — The appellant appeals by special leave from an order of the Court of Criminal Appeal of Singapore dismissing his appeal from a conviction by the High Court of Singapore on 20th October, 1949, for offences against the Singapore Finance Regulations. The order granting special leave